

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

KEVIN J. ISAAC,)	
)	
Plaintiff,)	Civil Action No. 18-15
)	
v.)	District Judge Nora Barry Fischer
)	Magistrate Judge Robert C. Mitchell
FARRELL AREA SCHOOL DISTRICT,)	
)	
Defendant.)	

MEMORANDUM ORDER

This matter comes before the Court on Plaintiff Kevin J. Isaac’s Objections (Docket No. 20) to the Report & Recommendation (“R&R”) of Magistrate Judge Robert C. Mitchell entered on August 9, 2018.¹ (Docket No. 19). The R&R recommends granting the above-captioned Defendant’s Motion to Dismiss Pursuant to Rule 12(b)(6) and dismissing Plaintiff’s Complaint with prejudice. (*Id.* at 13). Service of the R&R was made on all parties. On August 23, 2018, Plaintiff filed timely Objections to the R&R, to which Defendant filed a Response in Opposition on September 6, 2018. (Docket Nos. 20, 21). Plaintiff objects to the recommendation that the Court dismiss his discrimination and retaliation claims under the Uniformed Services Employment and Reemployment Rights Act (“USERRA”), 38 U.S.C. § 4301, *et seq.*, and his wrongful discharge claim under Pennsylvania law. According to Plaintiff, Magistrate Judge Mitchell incorrectly determined that issue preclusion bars his USERRA and wrongful discharge claims, and, additionally, that his wrongful discharge claim is preempted.

¹ On September 21, 2018, Magistrate Judge Mitchell issued a Supplement to the R&R indicating that any suggestion in the R&R that additional testimony was taken by the state court judge in a prior proceeding was in error, but “this error does not change this Court’s analysis or alter the ultimate resolution of the [Defendant’s] motion.” (Docket No. 23 at 1). Neither party filed objections to the Supplement to the R&R before the deadline on October 4, 2018.

In resolving a party's objections, the Court conducts a *de novo* review of any part of the R&R that has been properly objected to. Fed. R. Civ. P. 72(b)(3); 28 U.S.C. § 636(b)(1). The Court may accept, reject, or modify the recommended disposition, as well as receive further evidence or return the matter to the magistrate judge with instructions. *Id.* Upon careful *de novo* review of Plaintiff's Complaint, Defendant's Motion to Dismiss, the parties' briefs filed in connection with the Motion, the R&R, the Supplement to the R&R, Plaintiff's Objections and Defendant's Response in Opposition thereto, the Court concludes that the Objections do not undermine the R&R's recommended disposition. Accordingly, the Court enters the following Order:

AND NOW, this 9th day of October, 2018,

IT IS HEREBY ORDERED that Plaintiff's Objections to the R&R (Docket No. [20]) are OVERRULED, and the R&R (Docket No. [19]), as clarified by the Supplement to the R&R (Docket No. [23]), is ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that the above-captioned Defendant's Motion to Dismiss Pursuant to Rule 12(b)(6) (Docket [6]) is GRANTED, and Plaintiff's claims against Defendant in his Complaint (Docket No. [1]) are DISMISSED, WITH PREJUDICE, for the reasons set forth in the R&R.

IT IS FURTHER ORDERED that the Clerk shall mark this case CLOSED.

/s/ Nora Barry Fischer
Nora Barry Fischer
United States District Judge

cc/ecf: All counsel of record.